

FILED

1/31/2019

Clerk, U.S. District Court  
District of Montana  
Helena Division

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

JEFFREY S. RAPP,

Plaintiff,

vs.

HAMPTON MANAGEMENT LLC,

Defendant.

CV 18-16-BU-BMM-JCL

ORDER

United States Magistrate Judge Jeremiah Lynch entered his Findings and Recommendations in this case on January 8, 2019. Judge Lynch recommended dismissal of the case pursuant to Fed.R.Civ.P. 37(b)(2)(A)(v), (d)(1)(A)(i) and (d)(3). Plaintiff Jeffrey Rapp timely filed an objection on January 25, 2019. (Doc. 59.) Rapp is entitled to de novo review of those findings and recommendations to which he has specifically objected. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and

firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). “A party makes a proper objection by identifying the parts of the judge’s disposition that the party finds objectionable and presenting legal argument and supporting authority, such that the district court is able to identify the issues and the reasons supporting a contrary result.” *Montana Shooting Sports Ass’n v. Holder*, 2010 WL 4102940, at \*2 (D. Mont. Oct. 18, 2010) (citation omitted).

Judge Lynch concluded, and this Court agrees, that Rapp failed to provide responses to Hampton Inns’s discovery as required by the November 2, 2019, Order requiring Rapp to provide discovery responses pursuant to Rule 37 by November 16, 2018. (Doc. 50 at 5.) Rapp’s objection is improper because it fails to present legal argument and supporting authority. Rapp having failed to properly object to any of Judge Lynch’s Findings and Recommendations, this Court reviews the record for clear error. L.R. 72.3(a); *see also McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Lynch’s Findings and Recommendations.

Rapp also has filed what he fashions as a request for the Court to appoint a “Binding Arbitrator Mediator.” (Doc. 58) The Court deems this request moot in light of its decision to adopt in full Judge Lynch’s Findings and Recommendations.

**IT IS ORDERED** that Judge Lynch's Findings and Recommendations (Doc. 57) are **ADOPTED IN FULL. IT IS FURTHER ORDERED** that Rapp's request to appoint a mediator is denied as moot. This action is **DISMISSED** pursuant to Fed.R.Civ.P. 37(b)(2)(A)(v), (d)(1)(A)(i) and (d)(3).

DATED this 31st day of January, 2019.



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Brian Morris  
United States District Court Judge

